

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ANTWONE FLEMING,

Plaintiff,

vs.

JOHN PIRO,

Defendant.

Case No. 2:16-cv-00753-KJD-NJK

REPORT AND RECOMMENDATION

This matter is before the Court on Plaintiff's failure to file an Amended Complaint. *See* Docket. On April 28, 2016, Plaintiff submitted a Complaint and filed motion for leave to proceed *in forma pauperis*. Docket No. 5. On June 6, 2016, the Court found that Plaintiff's Complaint failed to state a claim for which relief could be granted. Docket No. 6 at 2-4. Accordingly, the Court dismissed Plaintiff's Complaint with leave to amend. *Id.* at 5. The Court gave Plaintiff until July 6, 2016, to file his Amended Complaint and warned Plaintiff that failure to comply with the Court's order "will result in the recommended dismissal of this case without prejudice." *Id.*

As Plaintiff has failed to file an Amended Complaint, no operative complaint exists in this case. Further, the Court warned Plaintiff that failure to file an Amended Complaint by July 6, 2016, would result in the recommended dismissal of this case. *Id.*

Accordingly, it is **RECOMMENDED** that this case be **DISMISSED** without prejudice.

Dated: July 19, 2016



 NANCY J. KOPPE
 United States Magistrate Judge

NOTICE

Pursuant to Local Rule IB 3-2 **any objection to this Report and Recommendation must be in writing and filed with the Clerk of the Court within 14 days of service of this document.** The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).